

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

ARLANDO DAVON VALENTINE (#1010750),

Petitioner,
v.

CIVIL ACTION NO. 2:20cv414

**HAROLD CLARKE, Director,
Department of Corrections,**

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of petitioner's constitutional rights pertaining to his 2000 conviction and sentencing in the Loudoun County Circuit Court for first degree murder and use of a firearm during the commission of a felony. As a result of the convictions, petitioner was sentenced to serve a prison term of life, plus three years.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed March 4, 2021 concluded the petition challenged the same conviction addressed by the court in Valentine's prior habeas challenge (Case No. 2:03cv769). As a result, the Magistrate Judge recommends dismissal of the petition without prejudice as being successive. The Report and Recommendation advised each party of his right to object and the time limit for doing so. The court has received no objections, and the time for filing objections has now expired.

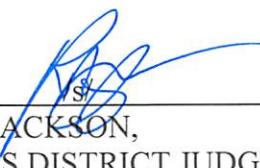
Because this court has not received an order from the Fourth Circuit authorizing the

consideration of Valentine's second habeas petition and it does not appear that Valentine has applied for such an order, the court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed March 4, 2021, and it is therefore ORDERED that Respondent's Motion to Dismiss (ECF No. 12) be GRANTED, and that the petition (ECF No. 1) be DENIED and DISMISSED without prejudice.

Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is DENIED. 28 U.S.C. § 2253(c); see Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); Miller-El v. Cockrell, 537 U.S. 322, 335–38 (2003); Slack v. McDaniel, 529 U.S. 473, 483–85 (2000).

Petitioner is ADVISED that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk is directed to mail a copy of this Final Order to Petitioner at his last known address and to provide an electronic copy of the Final Order to counsel of record for Respondent.


RAYMOND A. JACKSON,
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 1, 2021